

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
RECEIVED - LAKE CHARLES

MAY 12 2008

ROBERT H. MENWELL, CLERK
BY
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

IVAN L. MENEYEV : DOCKET NO. 07-cv-2056
VS. : JUDGE TRIMBLE
IMMIGRATION & CUSTOMS : MAGISTRATE JUDGE KAY
ENFORCEMENT, ET AL

REPORT AND RECOMMENDATION

Before the Court is a petition for a writ of *habeas corpus* filed by *pro se* petitioner Ivan L. Meneyev filed pursuant to 28 U.S.C. § 2241. [Doc. 1]. This matter has been referred to the undersigned magistrate judge for review, report and recommendation in accordance with 28 U.S.C. § 636(b)(1)(B).

In his petition, Petitioner states that he is a native and citizen of Brazil who was ordered removed from the United States at some time in 1992, but has been detained under a final order of removal issued on May 15, 2007. In his supporting materials, Petitioner indicates that he has waived his right of appeal. [Doc. 1, attachment #2]. He states that his “native country will not accept [his] deportation” and that “Brazil does not consider [him] a citizen.” [Doc. 1]. Petitioner therefore contends that there is no significant likelihood of removal in the reasonably foreseeable future and, therefore, seeks to have this Court order his release.

In light of facts presented by Petitioner, the Court ordered the government to respond to the petition. In its response, the government moves to dismiss the petition for lack of jurisdiction

because Petitioner is no longer in federal custody. [Doc. 13]. In support of its position, the government presents documentation that establishes that Petitioner was released from post-removal order detention on April 14, 2008 by means of removal from the United States. [Doc. 13, attachment #2]. Included is a declaration by BICE Assistant Field Office Director Scott Sutterfiel, that a review of the BICE database indicates that Petitioner was removed on April 14, 2008. *Id.* Also included is an executed warrant return, signed by the INS agent who witnessed Petitioner's departure, indicating that Petitioner departed the United States on American Airlines Flight #951 from John F. Kennedy Airport on April 14, 2008. *Id.*

At the time that his petition was filed, Petitioner was in post-removal order custody pursuant to the statutory authority of United States Immigration and Customs Enforcement. However, as Petitioner was released from custody on April 14, 2008, the Court finds that his challenge to his detention is now moot and should be dismissed.

Accordingly,

IT IS RECOMMENDED that the government's Motion to Dismiss for Lack of Jurisdiction be GRANTED, and that Petitioner's petition for writ of *habeas corpus* be DENIED and DISMISSED WITH PREJUDICE.

Under the provisions of 28 U.S.C. § 636(b)(1)(C) the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court. Timely objections will be considered by the district judge prior to a final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF SERVICE SHALL BAR AN AGGRIEVED

**PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN
ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL
CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.**

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 11th day of
May, 2008.


KATHLEEN KAY
UNITED STATES MAGISTRATE JUDGE